

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  NET PAGE NOW,  Respondent.	DOCKET NO. FCU-03-45
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**ORDER DOCKETING FOR FORMAL PROCEEDING  
AND REQUESTING RESPONSE**

(Issued January 20, 2004)

On July 21, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a request for a formal complaint proceeding to impose civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution issued in C-03-136 relating to Net Page Now, and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which is a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On May 7, 2003, Ronald W. Peyton, d/b/a Ron's Barber Shop of Hampton, filed a written complaint with the Board by his attorney alleging that Net Page Now

placed unauthorized charges for Internet advertising services on Mr. Peyton's business telephone bill. Board staff identified the matter as C-03-136 and, pursuant to Board rules, on May 23, 2003, forwarded the complaint to Net Page Now for response.

Net Page Now responded to the complaint on June 9, 2003, stating that its records showed that one of its call centers contacted Mr. Peyton's business on September 5, 2002. Net Page Now's records also indicated that the service was canceled on April 29, 2003, and that a credit had been issued to Mr. Peyton's business account for charges totaling \$89.85. Net Page Now attached a copy of the third-party verification recording.

On June 20, 2003, Board staff forwarded a copy of the third-party verification to Mr. Peyton, asking that he review the tape and respond in writing by June 30, 2003. A response from Mr. Peyton was received on June 23, 2003, wherein he alleged that while the voice on the recording was Mr. Peyton's, the recording was a fabrication where Mr. Peyton's voice was "dubbed" onto the present recording.

On July 8, 2003, Board staff issued a proposed resolution describing these events stating that the credits offered by Net Page Now represented a fair resolution of the situation. No party other than Consumer Advocate has challenged the staff's proposed resolution.

In its July 21, 2003, petition, the Consumer Advocate asserts that the proposed resolution is not supported by the facts of the underlying complaint and overlooks the possibility that the third-party verification recording was fabricated.

Consumer Advocate requests that the Board docket this complaint for a formal proceeding and impose civil penalties on Net Page Now.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. The Board recognizes that there has not been any action in this matter for some time. Therefore, the Board will delay establishing a procedural schedule until March 2, 2004, and allow Net Page Now an opportunity to respond to the allegations raised in Consumer Advocate's petition.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on July 21, 2003, identified as Docket No. FCU-03-45, is granted and docketed for formal proceedings.

2. Net Page Now is requested to file a response to the petition filed by Consumer Advocate on July 21, 2003, on or before March 2, 2004.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of January, 2004.